

1111FEDERAL RAILROAD ADMINISTRATION
Certification of Glazing Materials
(Title 49 Code of Federal Regulations (CFR) Part 223)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0525

Summary of Submission

- This submission is a revision to the last approved submission pertaining to Title 49 Code of Federal Regulations (CFR) Part 223, which was approved by OMB on June 1, 2022, which expires June 30,2025.
- FRA is publishing a Notice of Proposed Rulemaking (NPRM) revising Part 223 titled Safety Glazing Standards; Codifying Existing Waivers and Adding Test Flexibility in the Federal Register. See **87 FR** 22847. FRA plans to respond to any comments received in response to the NPRM in the final rule.
- Program change decreased the burden by 52 hours and decreased responses by 13.
- The answer to question number 12 itemizes all information collection requirements.
- The answer to question number 15 itemizes all adjustments.

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1. Circumstances that make collection of the information necessary.

Under 49 U.S.C. 20103, the Secretary of Transportation (Secretary) has broad authority to issue regulations governing every area of railroad safety. The Secretary has delegated rulemaking responsibility under section 20103 to the Administrator of FRA, 49 CFR 1.89(a). Pursuant to its general statutory rulemaking authority, FRA promulgates and enforces rules as part of a comprehensive regulatory program to address all areas of railroad safety. In the area of safety glazing, FRA issued regulations under 49 CFR part 223.

In the 1970s, railroads recorded many incidents involving propelled or fouling objects (e.g., stones, cinder blocks, and bullets) striking railroad vehicle windows, resulting in injuries to railroad employees and passengers. Some of the incidents were caused by intentional acts of vandalism (e.g., thrown rocks and stones); others resulted from routine rail operations (e.g., ballast or debris kicked-up by oncoming trains); and some were believed to be accidental (e.g., stray bullets from nearby hunting).

In 1979, FRA issued part 223 to protect railroad crew members and passengers when train windows are struck by propelled or fouling objects. Part 223 requires exterior windows in locomotives, cabooses, and passenger cars to be equipped with glazing that meets certain technical specifications designed to protect the vehicles' occupants from injury if a window is impacted by an object. Appendix A outlines the criteria for certifying a window's glazing and ensures that glazing materials in rail equipment are

significantly more resistant to impact than ordinary window glass or safety glass.

Part 223 requires all equipment built or rebuilt after June 31, 1980, to be equipped with certified glazing. With certain exceptions, part 223 also phases in requirements for equipment built or rebuilt prior to July 1, 1980. As a result, almost the entire railroad fleet is equipped with certified glazing.

The exceptions from part 223 include those for some older railroad equipment that is still in use today. Specifically, FRA's 2016 amendments¹ to part 223 exclude equipment under § 223.3(b)(3) that is more than 50 years old and, except for incidental freight service, used only for excursion, educational, recreational, or private transportation purposes.

In this NPRM, FRA is proposing to codify long-standing waivers that have provided certain older railroad equipment relief from part 223.² Codifying these waivers through this rulemaking proceeding would continue a high level of safety and allow FRA better flexibility to use its inspection resources and reduce the regulatory burden on the railroad industry by eliminating the need to continue to use the waiver process for relief, while providing the railroad industry with regulatory certainty as to the applicability of part 223 to certain older equipment. Codifying these waivers is also consistent with the requirements of section 22411 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58).

2. How, by whom, and for what purpose the information is to be used.

FRA is proposing to amend its Safety Glazing Standards for exterior windows on railroad equipment to codify long-standing waivers. Specifically, the proposed rule would eliminate the need for railroads to submit waiver petitions (and repeated extensions of those waivers every 5 years) from part 223 for certain older railroad equipment. However, for those passenger cars operating above Class III speed would still need to submit a waiver. For those operating below Class III speed the proposed rule would eliminate the need for the passenger railroads to submit waiver petitions.

Additionally, under § 223.3(c), each locomotive, passenger cars, and cabooses less than 50 years old and not used exclusively for excursion, educational, recreational, or private transportation purposes must comply with the emergency window requirements contained in § 223.9(c) or § 223.15(c), as appropriate, when it is occupied and operates in an intercity passenger or commuter train subject to part 238 of this chapter. A tool or other instrument may be used to remove or break an emergency window if the tool or other instrument is clearly marked and legible and understandable instructions are provided for its use.

Under § 223.11(d), for locomotive placed in designated service due to a damaged or broken cab window, it would be stenciled with "Designated Service - DO NOT

¹ 81 FR 6775 (02/09/2016).

² 87 FR 22847-XXXXX (4/18/2022 date).

OCCUPY”.

Finally, the collection of information set forth under Appendix A of part 223 requires the certification and permanent marking of glazing materials by the manufacturer. Additionally, the manufacturer is also responsible for making available test verification data to railroads and to FRA upon request.

3. Extent of automated information collection.

FRA strongly encourages the use of advanced information technology, wherever possible, to reduce burden on respondents.

The majority of glazing manufacturers utilize modern information technology which minimize the burden of providing the information collection request under part 223. In addition, the manufacturers have developed an efficient, practical, and cost-effective method of marking the glazing as required by part 223.

4. Efforts to identify duplication.

The information collected to FRA’s knowledge is not duplicated anywhere. Similar data is not available from any other source.

5. Efforts to minimize the burden on small businesses.

The Regulatory Flexibility Act of 1980 requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule would not have a significant economic impact on a substantial number of small entities. “Small entity” is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a “small entity” in the railroad industry includes a for-profit “line-haul railroad” that has fewer than 1,500 employees and a “short line railroad” with fewer than 500 employees.

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Under that authority, FRA has published a final statement of agency policy that formally establishes “small entities” or “small businesses” as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1-1, which is \$20 million or less in inflation-adjusted annual revenues; and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. The \$20 million limit is based on the Surface Transportation Board’s revenue threshold for a Class III railroad carrier. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1-1. The current threshold is \$40.4 million. FRA is using this definition for the proposed rule.

FRA estimates this proposed rule directly affects the 58 Class III railroads currently operating under one or more waivers. The proposed rulemaking would relieve these railroads of the labor costs and the uncertainty associated with the waiver submission process. FRA estimates three U.S. glazing manufacturers would develop and test new certifiable glazing materials each year during the analysis period. FRA expects these manufacturers would benefit from lower production costs due to the flexibility added to the certification test requirements. However, each of these manufacturers employs more than 1,000 persons, the SBA benchmark for large businesses by defined by the SBA.

6. Impact of less frequent collection of information.

The collection of information facilitates the accomplishment of FRA's primary mission, which is to promote and enhance railroad safety throughout the nation. Specifically, if this information collection were not conducted, neither FRA nor the railroads could be assured that units of glazing material installed on freight cars, passenger cars, and cabooses met Federal safety standards.

7. Special circumstances.

All other information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

FRA is publishing a Notice of Proposed Rulemaking (NPRM) in the Federal Register on **April 18, 2022**, titled Safety Glazing Standards; Codifying Existing Waivers and Adding Test Flexibility. See 87 FR 22847. FRA will respond to any comments received concerning the proposed rule and its associated collection of information at the final rule stage and in the final rule Supporting Justification.

9. Payments or gifts to respondents.

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this regulation.

10. Assurance of confidentiality.

The information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. Justification for any questions of a sensitive nature.

There are no sensitive questions, and no sensitive information is requested.

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per responses are based on the experience and expertise of FRA’s Office of Railroad Infrastructure and Mechanical Equipment.

FRA is including the dollar equivalent cost for each of the itemized hours below using the 2020 Surface Transportation Board’s (STB) Full-Year Wage A&B data series as the basis for each cost-equivalent calculation.

- For executives, officials, and staff assistants, the hourly wage rate is \$115.24 per hour (\$65.85 * 75-percent overhead charge).
- For professional and administrative staff, the hourly wage rate is \$77.47 per hour (\$44.27 * 75-percent overhead charge).
- For maintenance of equipment & stores employees, the hourly wage is \$59.89 per hour (\$34.22 * 75-percent overhead charge).

CFR Section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Wage rates (D)	Total cost equivalent (E) = C * D	PRA Analyses and Estimates
223.3—Application—Locomotives, passenger cars, and cabooses built after 1945 used only for excursion, educational, recreational, or private transportation purposes	704 railroads	400 marked tools (small hammers with instructions)	30 minutes	200.00 hours	\$59.89	\$11,978.00	<p>This paperwork requirement requires each railroad to mark each tool with an instruction.</p> <p>A total of 400 windows will need to have tools (usually a small hammer) marked with clear and legible instructions on how to use them mounted near the emergency window.</p> <p>It is estimated that will take approximately 30 minutes for each marking.</p>
223.11(c)—Requirements for locomotives built or rebuilt	The proposed rule would eliminate the need for railroads to submit waiver petitions (and repeated extensions of those waivers every 5 years) from part 223 for certain older railroad equipment, eliminate the Federal						

prior to July 1, 1980, equipped with certified glazing in all locomotive cab windows (*Note: Revised requirement.*)	government's need to review and approve the waiver petitions and extension requests						
—(d)(1) Locomotive placed in designated service due to a damaged or broken cab window—Stenciled “Designated Service—DO NOT OCCUPY”	704 railroads	15 stencilings	3 minutes	.75 hour	\$59.89	\$44.92	For locomotive placed in designated service due to a damaged or broken cab window, it would be stenciled with “Designated Service - DO NOT OCCUPY”. It is estimated that it will take approximately 3 minutes for each stenciling.
—(d)(2) Locomotives removed from service until broken or damaged windows are replaced with certified glazing	Glazing certification for locomotive replacement windows is done at the time of manufacturing. Consequently, there is no additional burden associated with this requirement.						
223.13(c)—Requirements for cabooses built or rebuilt prior to July 1, 1980, equipped with certified glazing in all windows (*Note: Revised requirement.*)	The proposed rule would eliminate the need for railroads to submit waiver petitions (and repeated extensions of those waivers every 5 years) from part 223 for certain older railroad equipment, eliminate the Federal government's need to review and approve the waiver petitions and extension requests						
—(d) Cabooses removed from service until broken or damaged windows are replaced with certified glazing	Glazing certification for caboose replacement windows is done at the time of manufacturing. Consequently, there is no additional burden associated with this requirement.						
223.15(c)—Requirements for passenger cars built or rebuilt prior to July 1, 1980, equipped with certified glazing in all windows plus four emergency windows (*Note: Revised requirement.*)	704 railroads	1 renewal waiver	4 hours	4 hours	\$115.24	\$460.96	For those passenger cars operating above Class III speed would still need to submit a waiver. It is estimated that will take approximately 4 hours to complete each petition.
—(d) Passenger cars removed from service until broken/damaged windows are replaced with certified glazing	Glazing certification for passenger car replacement windows is done at the time of manufacturing. Consequently, there is no additional burden associated with this requirement						
Appendix A—(b)(16)—	5	10	30	5.00	\$77.44	\$387.20	After successful completion of the

Certification of glazing materials—Manufacturers to certify in writing that glazing material meets the requirements of this section	manufacturers	certifications	minutes	hours			<p>prescribed set of required consecutive tests, a manufacturer may certify in writing that a particular glazing material meets the requirements of these standards. Additionally, the manufacturer is also responsible for making available test verification data to railroads and to FRA upon request.</p> <p>It is estimated that it will take approximately 30 minutes each certification and make testing verification data available upon request.</p>
—(c) Identification and marking of each unit of glazing material	5 manufacturers	25,000 marked pieces	480 pieces per hour	52.08 hours	\$59.89	\$3,119.07	<p>Each individual unit of glazing material must be permanently marked, prior to installation, to indicate that this type of material has been successfully tested as set forth in this appendix and that marking must be done in such a manner that it is clearly visible after the material has been installed. requires the certification and permanent marking of glazing materials by the manufacturer.</p> <p>It is estimated that approximately 480 pieces per hour will be appropriately marked.</p>
Total	704 railroads + 5 manufacturers	25,439 responses	N/A	314 hours	N/A	\$21,983	N/A

13. Estimate of total annual costs to respondents.

There are additional costs to respondents in addition to those in question number 12 above.

Estimated cost to respondents	Annual
Small hammers marked with instructions (400 tools times \$5 per unit of instruction)	\$2,000
Cost for providing the certification information to either the railroad or FRA (including costs for printing, copying, and mailing test data).	\$3,000
Marking of the individual glazing pieces (25,000 labels at \$.03 each)	\$750
Total	\$5,750

14. Estimate of Cost to Federal Government.

Currently, there is no cost to the Federal Government in connection with the certification of glazing materials.

15. Explanation of program changes and adjustments.

This is a revision to a current collection of information. The current OMB inventory for this information collection shows a total burden of 314 hours and 25,439 responses, while the requesting inventory estimates a total burden of 262 hours and 25,426 responses. Overall, the burden for this submission has decreased by 52 hours and decreased by 13 responses due to solely program change.

CFR Section	Total Annual Responses			Total Annual Burden Hours		
	Previous submission (Average time per submission)	Current submission (Average time per submission)	Difference	Previous submission	Current submission	Difference
223.11(c)— Requirements for locomotives built or rebuilt prior to July 1, 1980, equipped with certified glazing in all locomotive cab windows (*Note: Revised requirement.*)	10 renewal waivers (4 hours)	0	-10 waivers	40 hours	0	-40 hours
223.13(c)— Requirements for cabooses built or rebuilt prior to July 1, 1980, equipped with certified glazing in all windows (*Note: Revised requirement.*)	2 renewal waivers (4 hours)	0	-2 waivers	8 hours	0	-8 hours

223.15(c)— Requirements for passenger cars built or rebuilt prior to July 1, 1980, equipped with certified glazing in all windows plus four emergency windows (*Note: Revised requirement.*)	2 renewal waivers (4 hours)	1 renewal waiver (4 hours)	-1 waiver	8 hours	4 hours	-4 hours
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16. Publication of results of data collection.

FRA does not plan to publish the information collected.

17. Approval for not displaying the expiration date for OMB approval.

FRA is not seeking approval to not display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.